



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/761,511

01/16/2001

Takayuki Hisanaka

02309/0001158-US0

5640

7278

7590

03/31/2010

DARBY & DARBY P.C.

P.O. BOX 770

Church Street Station

New York, NY 10008-0770

EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

03/31/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/761,511	<b>Applicant(s)</b> HISANAKA, TAKAYUKI	
	<b>Examiner</b> LYNNE ANDERSON	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8, 11, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 11, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 March 2010 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 8 March 2010, with respect to the new matter issues, have been fully considered and are persuasive. The rejection of claims 8, 11, and 16-17 under 35 U.S.C. 112, first paragraph, has been withdrawn.

3. Applicant's arguments filed 8 March 2010 have been fully considered but they are not persuasive.

4. In response to the applicant's argument that Ehrnsperger fails to disclose the skin-protecting ingredient layer being exposed outside after the support layer is dissolved, it is noted that the present claims require the skin-protecting ingredient layer to be exposed outside, but do not require the skin-protecting ingredient layer be present on the outermost surface of the article. The skin-protecting ingredient layer of Ehrnsperger is located on the outer surface of the topsheet, as disclosed in column 6, line 64-column 7, line 17. When the support layer 66 of Ehrnsperger is dissolved, the topsheet is exposed to the wearer, as disclosed in column 17, lines 59-62. Since the

Art Unit: 3761

skin-protecting ingredient layer is located on the outer surface of the topsheet, and the topsheet is exposed to the wearer, the skin-protecting ingredient layer is therefore exposed outside when the support layer is dissolved.

5. In response to the applicant's argument that Ehrnsperger discloses a space between the support layer 66 and topsheet 24, it is noted that Ehrnsperger discloses in column 17, lines 56-58, the support layer being integral with and disposed on the topsheet. Since the skin-protecting ingredient layer is located on the outer surface of the topsheet, Ehrnsperger therefore discloses the support layer directly coating the skin-protecting ingredient layer.

6. In response to the applicant's argument that Ehrnsperger fails to disclose the skin-protecting ingredient layer being released by the dissolving of the support layer, it is noted that since the support layer of Ehrnsperger is located directly above the skin-protecting ingredient layer, removal of the support layer will expose the skin-protecting ingredient layer below. Therefore, access by the wearer to the skin-protecting ingredient layer is dependent on the dissolving of the support layer.

### ***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 8, 11, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrnsperger et al. (6,160,200) in view of Maeda et al. (4,740,402).

9. Ehrnsperger discloses all aspects of the claimed invention with the exception of the support layer comprising polyethylene oxide. Ehrnsperger discloses an absorbent

Art Unit: 3761

article 20 comprising a liquid pervious topsheet 24, a backsheet 26, and an absorbent core 26, as shown in figures 1-6. A skin-protective ingredient containing layer is applied to the upper surface of the topsheet 24, as disclosed in column 6, line 64-column 7, line 17, in a predetermined pattern. The skin-protective ingredient is fully capable of forming an oily film on the skin of a wearer. A support layer 66 is formed over the skin protective ingredient containing layer, as disclosed in column 17, lines 59-62, and covers substantially the entire article, as disclosed in column 11, lines 3-5. The skin protective ingredient containing layer comprises petroleum jelly, as disclosed in column 16, lines 60-62. The support layer 66 melts at a temperature threshold of 35 degrees C, as disclosed in column 13, lines 10-12. The support layer 66 is soluble in water at and above 25 degrees Celsius, as disclosed in column 10, lines 36-53 and column 13, lines 1-23. It is the examiner's position that since the support layer is soluble in water, at 100% humidity, the support layer is therefore promoted at 100% humidity, which is greater than 30% humidity. The support layer 66 is therefore capable of exposing the skin protective ingredient containing layer to the skin of a wearer after dissolving.

10. Ehrnsperger discloses the support layer comprises a water-soluble polymer such as polyacryamide. Maeda teaches the functional equivalence of polyacrylamide and polyethylene oxide in a water-soluble coating, as disclosed in column 3, lines 26-44. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the support layer of Ehrnsperger with polyethylene oxide, since Maeda teaches the functional equivalence of polyacrylamide and polyethylene oxide in a water-soluble coating.

Art Unit: 3761

11. With respect to claim 11, the article further comprises leak-preventive cuffs 32.

12. With respect to claims 16 and 17, the skin-protective ingredient containing layer is located on the topsheet 24 of the article, which fits around the wearer's thighs and abdominal region.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYNNE ANDERSON whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/761,511  
Art Unit: 3761

Page 6

/Lynne Anderson/  
Examiner, Art Unit 3761